

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

JOHN LANDI and LORI LANDI,  
Husband

Plaintiffs,

v.

Case No.: 2:17-cv-701-FtM-38MRM

HOME DEPOT USA, INC. and  
MAKITA USA, INC.,

Defendants.

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**OPINION AND ORDER**<sup>1</sup>

Before the Court is Dr. Joseph Kandel, M.D.'s Motion to Quash Subpoena Duces Tecum ([Doc. 167](#)). The parties held a videotaped deposition of Dr. Kandel in March 2019 to be used in lieu of live testimony at trial. But on December 27, 2019, Landi's counsel served Dr. Kandel with a subpoena commanding his appearance at the trial commencing on January 6, 2020. Dr. Kandel moves to quash the subpoena because it does not allow him reasonable time to comply, imposes an undue burden on him and his patients, and is unnecessary considering the videotaped deposition.

[Federal Rule of Civil Procedure 43\(d\)\(3\)\(A\)](#) requires the Court to quash a subpoena that fails to allow a reasonable time to comply or subjects a person to undue burden. Dr. Kandel and his staff are scheduled to see forty-three patients on January 6 alone, and he does not have time in his calendar to reschedule these patients in the

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<sup>1</sup> Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

immediate future. The Court finds the subpoena should be quashed. First, given Dr. Kandel's predictably busy schedule and the intervening weekend and holiday, the subpoena did not give him reasonable time to comply. Second, requiring Dr. Kandel to cancel appointments with dozens of patients would impose an undue burden on him and his patients, especially considering the availability of a videotaped deposition.


The Court will quash the subpoena. Landi must rely on Dr. Kandel's March 2019 videotaped deposition.

Accordingly, it is now

**ORDERED:**

Dr. Joseph Kandel, M.D.'s Motion to Quash Subpoena Duces Tecum ([Doc. 167](#)) is **GRANTED**. The subpoena served on Dr. Kandel on December 27, 2019 is **QUASHED**.

**DONE** and **ORDERED** in Fort Myers, Florida this 2nd day of January, 2020.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record

George H. Knott  
Knott Ebelini Hart  
Attorney for Non-Party Joseph Kandel, M.D.  
1625 Hendry Street, Suite 301  
Fort Myers, FL 33901